

REMARKS

Claims 22-26 and 34-40 are pending in this application, with claims 22-25 and 40 withdrawn from consideration. Claim 26 is amended to more clearly define the subject matter and incorporate the limitations of claim 35. Support for this amendment can be found in the specification at page 9, lns. 14-17. Accordingly, claim 35 is canceled.

Claims 26, 34, and 36-39 are amended to recite a "coating composition." Support for these amendments can be found in the specification at page 5, ln. 26 to page 6, ln. 2. Claim 34 is also amended to more clearly modify base claim 26.

Claim Objections

Claims 34 and 35 were objected to for failing to further limit the subject matter of the claim from which they depend. Claim 35 is canceled. By virtue of the amendment to claim 26, claim 34 now further limits the subject matter of claim 26, thus overcoming this objection.

Rejections Under § 112

The Office Action contends that claims 26 and 34-39 are non-compliant with § 112, second paragraph, for indefiniteness. Claim 35 is canceled. Claim 26 is amended to remove the recitation "said composition forming a coating on a surface of said medical device and being bonded thereto and reactive with bio-active agents" and to clarify the nature of the interaction with the bio-active agents. Applicant contends that claims 26, 34, and 36-39 are now in compliance with § 112, second paragraph, and request that these claims be allowed.

Double Patenting Rejections

The Office Action contends that claims 26 and 34-39 are unpatentable over claims 3-6, 11, and 12 of U.S. Patent No. 6,197,051 and claims 1-6 of U.S. Patent No. 6,723,121 for obviousness-type double patenting. Without acquiescing to the propriety of this double patenting rejection, in order to advance prosecution of this application, terminal disclaimers over U.S. Patent Nos. 6,723,121 and 6,197,051 are filed.

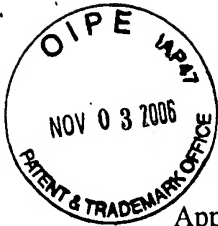
Rejections Under § 102

The Office Action contends that claims 26 and 34-39 are anticipated by U.S. Patent No. 4,994,167 (Shults et al.) under § 102(b). Applicant rebuts this contention and demonstrates that these claims are not anticipated by *Shults*.

Claim 26 recites a composition having “an excess of a polyfunctional cross-linking agent having enough unreacted functional groups to bond with a bio-active agent.”

Shults refers to BAYBOND 123, which is described as being a “polycarbonate urethane polymer” (see col. 13, lns. 28-30). *Shults* also states: “[t]he polyurethane polymer is crosslinked in the presence of the polyvinylpyrrolidone by preparing a premix of the polymers and adding a cross-linking agent just prior to the production of the membrane” (col. 13, lns. 52-55).

However, *Shults* fails to disclose a composition having an excess of the cross-linking agent such that enough unreacted functional groups are available to bond with a bio-active agent. In fact, *Shults* does not even mention a bio-active agent, as required by claim 26. For at least these reasons, Applicant contends that *Shults* does not anticipate claims 26, 34, and 36-39 and request allowance of these claims.

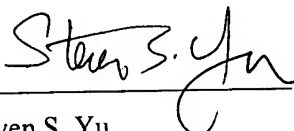


CONCLUSION

Applicant respectfully submits that the present application is now in condition for allowance. The Examiner is invited to contact Applicant's representative to discuss any issue that would expedite allowance of this application. The Commissioner is authorized to charge all required fees, fees under § 1.17, or all required extension of time fees, or to credit any overpayment to Deposit Account No. 11-0600 (Kenyon & Kenyon LLP).

Respectfully submitted,

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